

REMARKS

The examiner rejected claims 3, 5 and 24 under 35 USC 112, second paragraph as being indefinite.

Applicant has amended the claims to overcome the rejections. Amended claim 3 provides antecedent basis for price as a price at which the order is matched. Claim 5 as amended provides antecedent basis for the price condition later in the claim as specifying that in Claim 1 that one of the conditions in the order is a price condition.

Amended claim 24 now calls for instructions to ... match the order with the at least one response during the exposure time specified by the order at the price of the response, with the price of the response fluctuating according to changes in a national best bid/offer price that is periodically published during the auction.

Claims 33, 34, 38, 39 and 64 were rejected under 35 U.S.C. § 102 (e) as anticipated by Harrington et al, U.S. Patent 6,161,099. Claims 1, 2, 4, 14-25, 27-32, 35, 36, 40, 55-58, 65-72, and 74-78 were rejected under 35 U.S.C. § 103 (a) as being obvious over Harrington et al, U.S. Patent 6,161,099. Claims 3, 5, 12, 13, 26 and 73 were rejected under 35 U.S.C. § 103 (a) as being obvious over Harrington et al, U.S. Patent 6,161,099 in view of Silverman et al. U.S. Patent 5,136,501.

Claims 33, 34, 38, 39 and 64 are distinct over the references. The features of claim 33 include a plurality of workstations for entering orders for financial products by specifying in the order an exposure time for which the order is displayed for responses and a plurality of workstations for entering responses to orders for the product. Claim 33 also features a server computer executing a server process that for a first one of said orders determines a match to said first order with the responses and contra-side orders during the exposure time specified by said first order. These features are neither described nor suggested by Harrington for the reasons above and of record.

Claims 1, 2, 4, 14-25, 27-32, 35, 36, 40, 55-58, 65-72, and 74-78 are distinct over the references. For instance, Claim 1 is directed to a method of auctioning products over a distributed networked computer system. Distinguishing features of claim 1 include entering an

order for a product by specifying in the order an exposure time for which the order can be displayed for responses, entering responses to the order, at least some of the responses specifying a relative price with a price improvement with the relative price being relative to a generally accepted indicator of a prevailing current market price and matching the order with a first one of the responses that meets all of the conditions specified by the order during the exposure time specified by the order, with matching of the first one of the responses with the order terminating the auction. These features are neither described nor suggested by Harrington for the reasons above and of record.

Apparently, the examiner concedes that all of the features in claim 1 that are related to responses are absent in Harrington. The examiner addresses this shortfall in Harrington by relying on a misapplication of the so-called "printed matter" doctrine to summarily dismiss Appellant's claimed features involving responses and matching.

The examiner cannot ignore limitation in Appellant's claims and therefore these claims are distinct over the reference.

Claims 3, 5, 12, 13, 26 and 73 are distinct over the references. Claim 3 is and is directed to the feature that the price of the response changes with changes in the generally accepted indicator during the life of the order and the price of the response has an impact on the final price of the order.

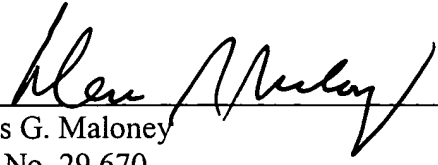
For all of the reasons discussed above, the examiner is incorrect in ignoring limitations in Appellant's claims. Claim 3 however, specifically recites that responses affect the final price at which the order is matched and therefore, there is absolutely no basis for the examiner to ignore these limitations as set out in claim 3. Neither Harrington nor Silverman suggest this element.

Entry of these amendments is requested since they place the application in condition for allowance or better form for appeal by materially reducing issues on appeal, require no further search by the examiner and only minimal consideration.

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Respectfully submitted,

Date: 8/21/03

  
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